

Agricultural Research Service, USDA

§ 550.50

§ 550.46 Competition.

(a) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Cooperator shall be alert to organizational conflicts of interest as well as non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Cooperator, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offer shall fulfill in order for the bid or offer to be evaluated by the Cooperator. Any and all bids or offers may be rejected when it is in the Cooperator's interest to do so.

(b) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549 and 12689, "Debarment and Suspension."

(c) Recipients shall, on request, make available for the REE Agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

§ 550.47 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of

price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 550.48 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

- (a) Basis for contractor selection;
- (b) Justification for lack of competition when competitive bids or offers are not obtained; and
- (c) Basis for award cost or price.

§ 550.49 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely followup of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 550.50 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to sub-contracts.

(a) Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination by the cooperator, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract

§ 550.51

7 CFR Ch. V (1–1–10 Edition)

may be terminated because of circumstances beyond the control of the contractor.

(c) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, the REE Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(d) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of appendix A, 2 CFR part 215, as applicable.

REPORTS AND RECORDS

§ 550.51 Purpose of reports and records.

Sections 550.52 through 550.55 set forth the procedures for monitoring and reporting on the Cooperator's financial and program performance and the necessary reporting format. They also set forth record retention requirements, and property and equipment inventory reporting requirements.

§ 550.52 Reporting program performance.

(a) The REE Agency shall prescribe the frequency with which performance reports shall be submitted. Performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The REE Agency may require annual reports before the anniversary dates of multiple year agreements in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the period of agreement.

(b) When required, performance reports shall contain, for each award, detailed information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period and the findings of the investigator. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) Cooperators shall not be required to submit more than the original and two copies of performance reports.

(d) Cooperators shall immediately notify the REE Agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

§ 550.53 Financial reporting.

Financial Status Report.

(a) Each REE Agency shall require Cooperators to report the status of funds as approved in the budget for the cooperative agreement. A financial status report shall consist of the following information:

(1) The name and address of the Cooperator.

(2) The name and address of the PI.

(3) The name, address, and signature of the financial officer submitting the report.

(4) A reference to the cooperative agreement.

(5) Period covered by the report.

(6) An itemization of actual dollar amounts expended on the project during the reporting period (in line with the approved budget) and cumulative totals expended for each budget category from the starting date of the cooperative agreement.

(b) The REE Agency shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of